

FIRST REGULAR SESSION

SENATE BILL NO. 238

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CALLAHAN.

Read 1st time January 26, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1444S.011

AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof one new section relating to the determination of Missouri adjusted gross income for tax purposes.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 143.121, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 143.121, to read as follows:

143.121. 1. The Missouri adjusted gross income of a resident individual
2 shall be the taxpayer's federal adjusted gross income subject to the modifications
3 in this section.

4 2. There shall be added to the taxpayer's federal adjusted gross income:
5 (1) The amount of any federal income tax refund received for a prior year
6 which resulted in a Missouri income tax benefit;

7 (2) Interest on certain governmental obligations excluded from federal
8 gross income by Section 103 of the Internal Revenue Code. The previous sentence
9 shall not apply to interest on obligations of the state of Missouri or any of its
10 political subdivisions or authorities and shall not apply to the interest described
11 in subdivision (1) of subsection 3 of this section. The amount added pursuant to
12 this subdivision shall be reduced by the amounts applicable to such interest that
13 would have been deductible in computing the taxable income of the taxpayer
14 except only for the application of Section 265 of the Internal Revenue Code. The
15 reduction shall only be made if it is at least five hundred dollars;

16 (3) The amount of any deduction that is included in the computation of
17 federal taxable income pursuant to Section 168 of the Internal Revenue Code as
18 amended by the Job Creation and Worker Assistance Act of 2002 to the extent the
19 amount deducted relates to property purchased on or after July 1, 2002, but

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 before July 1, 2003, and to the extent the amount deducted exceeds the amount
21 that would have been deductible pursuant to Section 168 of the Internal Revenue
22 Code of 1986 as in effect on January 1, 2002;

23 **(4) The amount of any deduction that is included in the**
24 **computation of federal taxable income under Section 199 of the**
25 **Internal Revenue Code, as amended by the American Jobs Creation Act**
26 **of 2004;**

27 **(5)** The amount of any deduction that is included in the computation of
28 federal taxable income for net operating loss allowed by Section 172 of the
29 Internal Revenue Code of 1986, as amended, other than the deduction allowed by
30 Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as
31 amended, for a net operating loss the taxpayer claims in the tax year in which the
32 net operating loss occurred or carries forward for a period of more than twenty
33 years and carries backward for more than two years. Any amount of net
34 operating loss taken against federal taxable income but disallowed for Missouri
35 income tax purposes pursuant to this subdivision after June 18, 2002, may be
36 carried forward and taken against any income on the Missouri income tax return
37 for a period of not more than twenty years from the year of the initial loss; and

38 **[(5)] (6)** For nonresident individuals in all taxable years ending on or
39 after December 31, 2006, the amount of any property taxes paid to another state
40 or a political subdivision of another state for which a deduction was allowed on
41 such nonresident's federal return in the taxable year unless such state, political
42 subdivision of a state, or the District of Columbia allows a subtraction from
43 income for property taxes paid to this state for purposes of calculating income for
44 the income tax for such state, political subdivision of a state, or the District of
45 Columbia.

46 3. There shall be subtracted from the taxpayer's federal adjusted gross
47 income the following amounts to the extent included in federal adjusted gross
48 income:

49 (1) Interest or dividends on obligations of the United States and its
50 territories and possessions or of any authority, commission or instrumentality of
51 the United States to the extent exempt from Missouri income taxes pursuant to
52 the laws of the United States. The amount subtracted pursuant to this
53 subdivision shall be reduced by any interest on indebtedness incurred to carry the
54 described obligations or securities and by any expenses incurred in the production
55 of interest or dividend income described in this subdivision. The reduction in the

56 previous sentence shall only apply to the extent that such expenses including
57 amortizable bond premiums are deducted in determining the taxpayer's federal
58 adjusted gross income or included in the taxpayer's Missouri itemized
59 deduction. The reduction shall only be made if the expenses total at least five
60 hundred dollars;

61 (2) The portion of any gain, from the sale or other disposition of property
62 having a higher adjusted basis to the taxpayer for Missouri income tax purposes
63 than for federal income tax purposes on December 31, 1972, that does not exceed
64 such difference in basis. If a gain is considered a long-term capital gain for
65 federal income tax purposes, the modification shall be limited to one-half of such
66 portion of the gain;

67 (3) The amount necessary to prevent the taxation pursuant to this chapter
68 of any annuity or other amount of income or gain which was properly included in
69 income or gain and was taxed pursuant to the laws of Missouri for a taxable year
70 prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose
71 death the taxpayer acquired the right to receive the income or gain, or to a trust
72 or estate from which the taxpayer received the income or gain;

73 (4) Accumulation distributions received by a taxpayer as a beneficiary of
74 a trust to the extent that the same are included in federal adjusted gross income;

75 (5) The amount of any state income tax refund for a prior year which was
76 included in the federal adjusted gross income;

77 (6) The portion of capital gain specified in section 135.357, RSMo, that
78 would otherwise be included in federal adjusted gross income;

79 (7) The amount that would have been deducted in the computation of
80 federal taxable income pursuant to Section 168 of the Internal Revenue Code as
81 in effect on January 1, 2002, to the extent that amount relates to property
82 purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that
83 amount exceeds the amount actually deducted pursuant to Section 168 of the
84 Internal Revenue Code as amended by the Job Creation and Worker Assistance
85 Act of 2002;

86 (8) For all tax years beginning on or after January 1, 2005, the amount
87 of any income received for military service while the taxpayer serves in a combat
88 zone which is included in federal adjusted gross income and not otherwise
89 excluded therefrom. As used in this section, "combat zone" means any area which
90 the President of the United States by Executive Order designates as an area in
91 which armed forces of the United States are or have engaged in combat. Service

92 is performed in a combat zone only if performed on or after the date designated
93 by the President by Executive Order as the date of the commencing of combat
94 activities in such zone, and on or before the date designated by the President by
95 Executive Order as the date of the termination of combatant activities in such
96 zone; and

97 (9) For all tax years ending on or after July 1, 2002, with respect to
98 qualified property that is sold or otherwise disposed of during a taxable year by
99 a taxpayer and for which an addition modification was made under subdivision
100 (3) of subsection 2 of this section, the amount by which addition modification
101 made under subdivision (3) of subsection 2 of this section on qualified property
102 has not been recovered through the additional subtractions provided in
103 subdivision (7) of this subsection.

104 4. There shall be added to or subtracted from the taxpayer's federal
105 adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment
106 provided in section 143.351.

107 5. There shall be added to or subtracted from the taxpayer's federal
108 adjusted gross income the modifications provided in section 143.411.

109 6. In addition to the modifications to a taxpayer's federal adjusted gross
110 income in this section, to calculate Missouri adjusted gross income there shall be
111 subtracted from the taxpayer's federal adjusted gross income any gain recognized
112 pursuant to Section 1033 of the Internal Revenue Code of 1986, as amended,
113 arising from compulsory or involuntary conversion of property as a result of
114 condemnation or the imminence thereof.

115 7. (1) As used in this subsection, "qualified health insurance premium"
116 means the amount paid during the tax year by such taxpayer for any insurance
117 policy primarily providing health care coverage for the taxpayer, the taxpayer's
118 spouse, or the taxpayer's dependents.

119 (2) In addition to the subtractions in subsection 3 of this section, one
120 hundred percent of the amount of qualified health insurance premiums shall be
121 subtracted from the taxpayer's federal adjusted gross income to the extent the
122 amount paid for such premiums is included in federal taxable income. The
123 taxpayer shall provide the department of revenue with proof of the amount of
124 qualified health insurance premiums paid.

125 8. (1) Beginning January 1, 2009, in addition to the subtractions provided
126 in this section, one hundred percent of the cost incurred by a taxpayer for a home
127 energy audit conducted by an entity certified by the department of natural

128 resources under section 640.153, RSMo, or the implementation of any energy
129 efficiency recommendations made in such an audit shall be subtracted from the
130 taxpayer's federal adjusted gross income to the extent the amount paid for any
131 such activity is included in federal taxable income. The taxpayer shall provide
132 the department of revenue with a summary of any recommendations made in a
133 qualified home energy audit, the name and certification number of the qualified
134 home energy auditor who conducted the audit, and proof of the amount paid for
135 any activities under this subsection for which a deduction is claimed. The
136 taxpayer shall also provide a copy of the summary of any recommendations made
137 in a qualified home energy audit to the department of natural resources.

138 (2) At no time shall a deduction claimed under this subsection by an
139 individual taxpayer or taxpayers filing combined returns exceed one thousand
140 dollars per year or cumulatively exceed two thousand dollars per taxpayer or
141 taxpayers filing combined returns.

142 (3) Any deduction claimed under this subsection shall be claimed for the
143 tax year in which the qualified home energy audit was conducted or in which the
144 implementation of the energy efficiency recommendations occurred. If
145 implementation of the energy efficiency recommendations occurred during more
146 than one year, the deduction may be claimed in more than one year, subject to the
147 limitations provided under subdivision (2) of this subsection.

148 (4) A deduction shall not be claimed for any otherwise eligible activity
149 under this subsection if such activity qualified for and received any rebate or
150 other incentive through a state-sponsored energy program or through an electric
151 corporation, gas corporation, electric cooperative, or municipally owned utility.

152 9. The provisions of subsection 8 of this section shall expire on December
153 31, 2013.

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